

Notice of Allowability

Application No.

10/072,032

Examiner

Jennifer E. Novosad

Applicant(s)

STEIN, ALLEN R.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after-final amendment (copy) of June 8, 2004.
2. ☒ The allowed claim(s) is/are 23 and 24.
3. ☒ The drawings filed on 07 February 2002 and 20 May 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The prior art of record fails to show or suggest a display device, as specifically called for in the claimed combination of claim 23, which comprises an underlying *panel* pivotally mounted (see line 4) to a rack and having a first display surface with a sample of a first displayed floor covering material mounted thereon (see lines 5-7), and an overlying *panel* having an inner edge pivotally mounted (see line 4) to the rack and a free edge distal the inner edge (see line 10) and the overlying panel overlying the underlying panel such that at least one of the width and height of the overlying panel is "sufficiently less" (see line 11) than one of the width and height of the underlying panel so that at least a portion of the sample is visible beyond the free edge of the overlying panel (see last two lines).

The declaration under 37 CFR 1.132 filed June 8, 2004 is sufficient to overcome the rejection of claims 23 and 24 based upon Howard '852 in view of Capel '809. Note especially section 11 which states that "the Howard '852 patent states that one of its objectives is to maintain a 'preadjusted acute angularity'... Modifying the Howard device... to include some 'pivotal' mounting mechanism, would run completely counter to this stated objective of maintaining a fixed angularity." The examiner respectfully agrees with this statement and thus to provide Howard with a pivotal mounting is not only unobvious but it would teach away from the intended use of Howard.

It is noted that although the prior art of record shows different features of the claimed invention, e.g., (a) U.S. Patent Nos. 4,253,259 and 4,682,697 show several devices displaying floor covering samples, such as carpet, but the display *panels* in these devices do not have panels

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with differing widths or heights; (b) U.S. Patent No. 2,876,907, shows devices having overlying and underlying panels having differing widths; and (c) U.S. Patent Nos. 5,782,366 and 6,244,106 show devices having panels pivotally mounted to a rack, there is no motivation to combine any or all of these references to arrive at the instant invention. *For example*, it would not be obvious to combine the use of panels having different widths, as shown in 2,876,907, with a carpet sample, as shown in 4,253,259, since there is no motivation to place a carpet sample on a panel so that a portion of the sample is visible beyond the free edge and it would not be obvious combine panels, as shown in 6,244,106, with panels having different widths, as shown in 2,876,907, since the panels in a book are intended to be the same size.

It is noted that the after-final amendment filed June 8, 2004 is a copy of the after-final amendment faxed to the PTO on March 22, 2004 which was not matched with this application. Note that applicant has submitted a copy of the facsimile transmission (of March 22, 2004) with the amendment of June 8, 2004. *Thus*, since the after-final amendment of March 22, 2004 was submitted two months from the date of the mailing, i.e., January 22, 2004, of the final Office action, and the amendment of June 8, 2004 contains a proper showing that applicant responded to the final Office action in a timely manner, no extension of time is necessary for the amendment of June 8, 2004 to be entered and considered.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer E. Novosad/jen
June 28, 2004



Carl D. Friedman
Supervisory Patent Examiner
Group 3600